

**Wisconsin Department of Transportation  
Disadvantaged Business Enterprise Program  
Mentor/Protégé Program**



**WISCONSIN DEPARTMENT OF TRANSPORTATION**  
**MENTOR PROTÉGÉ PROGRAM**  
*DBE Mentor/Protégé Program*

**I. INTRODUCTION**

The Wisconsin Department of Transportation (WisDOT) is committed to strengthening its disadvantaged businesses program and encouraging businesses owned and controlled by disadvantaged persons to participate in transportation related contracts. To ensure that this effort is successful, WisDOT has established the Mentor/Protégé program.

The Mentor/Protégé program is designed to become the delivery system for the promotion and expansion of disadvantaged businesses in Wisconsin. It is intended to increase the statewide capacity and availability of DBEs, and help the prime contractor facilitate and develop relationships that foster DBE participation on DOT projects. The Mentor/Protégé program is one method that can be utilized to assist the contractor with meeting the DBE goal on a project, despite the area of the state that the project is located in.

The significance of the Mentor/Protégé program is that it provides an incentive to the majority contractor and the DBE that will allow for the successful entry of the DBE into the free enterprise system. It provides the avenue necessary for them to participate as partners in the Wisconsin highway construction industry.

There are many challenges facing DBE firms. The Mentor/Protégé program proposes to address these problem issues by fostering a mutual cooperation effort between the major community and the disadvantaged business communities. It is through this cooperation that DBE firms will obtain a greater opportunity to share in the Wisconsin construction dollar.

The Mentor/Protégé program provides safeguards that will not jeopardize the continued existence of those DBE firms already in business because it targets new development in the non-traditional areas where DBEs are currently not involved. This provision also removes the burden of the prime to meet the contract goal from DBE high concentration areas, such as landscaping and trucking, at the expense of the non-DBE firms in these areas. This should result in increased contracting and subcontracting opportunities for the non-DBE firms as well.

The Mentor/Protégé program is aimed specifically at increasing DBE participation in Department contracts, as required by the Code of Federal Regulation, 49 Part 26.

The Wisconsin Department of Transportation seeks the assistance and cooperation of the business community in carrying out this important program.

**II. PURPOSE**

A Mentor/Protégé arrangement exists when an experienced company or individual (Mentor) provides assistance and training to a DBE (Protege). The mentor/protege arrangement can range from technical through management assistance to the creation of a new, jointly owned

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firm. All applications for the Mentor/Protege Program will be reviewed on a case-by-case basis.

WisDOT's Mentor-Protégé program is designed to foster the development of DBE firms by assisting them to move into non-traditional areas of work and to compete in the marketplace outside the DBE program. This goal will be accomplished as mentors provide training and assistance in critical areas, which foster growth and success.

**III. CERTIFICATION**

DBE firms certified under Wisconsin's Unified Certification Program may participate in the Mentor-Protégé Program. Likewise, if a DBE loses their certification for any reason, the Department will not allow DBE Credit for any work subcontracted to the mentor-protégé firm.

**IV. CREDIT**

DBE Credit will be granted based on guidelines set forth in 49 CFR Part 26, Section 26.35 (b) (2)

**V. REIMBURSEMENT**

**A. Allotments**

WisDOT will allow services provided by the mentor to be reimbursed under the Federal Transit Authority (FTA), Federal Highway Administration (FHWA) and Federal Aviation Administration (FAA) programs.

**B. Eligibility**

To be eligible for reimbursement, associated costs must be directly attributable and properly allowable to specific individual contracts.

**C. Costs**

Those may be presented as a line item for the mentor to quote the portion of the fee schedule, expected to be provided during the life of the contract.

**D. Verifiability**

1. The amount claimed should be verified by WisDOT and paid on an incremental basis representing the time the protégé is working on the contract.
2. WisDOT will verify the total individual contract figures accumulated over the life of the agreement and the agreement shall not exceed the amount stipulated in the original mentor/protégé agreement.

**VI. TYPES OF ASSISTANCE**

The common types of assistance that a mentor may provide a protege include:

Business Planning  
Record Keeping

Financial Counseling  
Bonding

**A. *Financial***

A mentor may provide a protege with working capital. Time notes, loans and stocks are acceptable methods of assuring payment in exchange for working capital. Demand notes are not acceptable. Stock issuance to a mentor may not exceed 49% of the total stock. In no case can the day-to-day control of the firm be relinquished by the DBE as a requirement of the loan.

No ownership in a DBE by a non-disadvantaged entity, including a mentor, is permitted. Any property, equipment, supplies, or other services which are sold, rented, or donated to the DBE, as well as any investment by non-disadvantaged individuals, must be reported to WisDOT in the mentor/protege development plan and must be covered by bills of sale, lease agreements, etc. Furthermore, any financial investment by the mentor cannot provide the mentor with control over the protege.

The mentor/protege relationship may include, when not in conflict with state law, an arrangement by mutual consent in which an independent third party, such as a bank or an accountant, is designated as an agent for the DBE. Such agents may receive progress payments for work accomplished by the DBE, made out jointly to the agent and the DBE, and make payments, on behalf of the DBE, to material suppliers or for federal and state payroll taxes, etc.

The examples discussed below are not meant to be exhaustive. Other methods of encouraging and supporting DBE's may be allowable. Contractors or associations with programs must seek approval of the EEO Office.

**B. *Technical and Management Assistance***

The mentor may provide guidance on project management and construction techniques, training in plan interpretation, or estimating and cost accounting. However, the DBE must retain final decision-making authority.

**C. *Equipment and Personnel***

The mentor may provide, in limited instances, skilled personnel and equipment if a written lease or rental agreement covers the equipment and the personnel are on the payroll and under the direct supervision of the DBE. Generally, rental or lease agreements with the mentor will be reviewed on a cost-benefit analysis, based on average industry prices. Long-term, continual, or repetitive use by a DBE subcontractor of personnel primarily employed by the mentor will be construed as an attempt to artificially inflate DBE participation.

**D. *Bonding***

The mentor may provide the protege with assistance by bonding the entire job and either charging on a pro rata basis or not charging the DBE for the bond. It is expected that after gaining experience through WisDOT projects, the DBE will develop the ability to bond projects independent of the mentor.

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***E. Exclusive Arrangements***

Federal antitrust statutes are concerned with contracting arrangements limiting competition. An area of special concern is exclusive arrangements. Any relationship in which a contractor requires a subcontractor to have an exclusive bidding agreement may violate federal laws. During the course of the relationship, the subcontractor must have the right to quote bids to other prime contractors. Any de facto exclusivity that may occur in the initial stages of the relationship, because the protege is new and inexperienced and less marketable, is not construed as an agreement by the parties to an exclusive bidding arrangement.

***F. Generally Unacceptable Practices***

Any subcontracting arrangement contrived to artificially inflate DBE participation is not acceptable. The interjection of DBE middlemen or passive conduits not in accord with standard industry practices or which serve no commercially useful purpose, and arrangements in which a DBE prime or subcontractor is acting essentially as a broker are not permitted. In addition, any formal or informal agreement that limits the disadvantaged owner's control and management of the firm is unacceptable.

**VII. Requirements**

Mentor/Protege may be approved in all areas of highway construction in which mentor assistance is needed to develop DBE capacity.

The following requirements must be met for participation in the Mentor/Protege program.

1. The protege must be certified as a DBE through Wisconsin's Unified Certification Program.
2. The mentor and protege must be separate entities, with the DBE responsible for the management of work under contract to the DBE. Personnel involved directly in the project must be on the payroll and under the direct supervision of the DBE, and compensation to the DBE should be relative to the amount of work accomplished rather than an hourly basis.
4. Both the mentor and the protégé must meet affirmative action/EEO requirements of the contract.
5. In general, only one Mentor/Protege arrangement will be allowed per non-DBE prime contractor.
6. Proteges may not subcontract any work to the mentor. The protege may not subcontract or assign any of its work to any other contractor without the prior approval of WisDOT.
7. The protégé must prepare a three-year development plan and update it annually. The development plan shall state the current status of the firm and goals for the next three

years. The development plan shall contain, at a minimum, information on the background and experience of the owners; the number and types of personnel; the amount of capital; the number, types and values of equipment; and the amount and types of projects to be pursued. This three-year period may be extended to five years on a case-by-case basis.

8. The protege must prepare an annual report on the Mentor/Protege relationship and meet with WisDOT officials to review the report (see Monitoring). The annual report shall contain a comparison with each category in the development plan, a summary of work accomplished, and an explanation of how the mentor assisted in the completion of work.

9. The protege shall retain an attorney and accountant other than the mentor's attorney and accountant.

10. The Mentor/Protege relationship shall be initially limited to three years, with a possible extension to five years.

11. Proteges participating in Mentor/Protégé agreements may be utilized in meeting DBE project goals up to the limits defined in 49 CFR Part 26, Section 26.35.

### ***Development Plan***

All Mentor/Protege relationships should be evidenced by a written development plan approved by WisDOT. All parties and WisDOT should retain copies of the development plan.

The following guidance should be considered in the development of such plans:

1. The development plan should clearly set forth the objective of the parties and their respective roles.

2. The development plan should describe measurable benchmarks to be reached by the DBE at successive stages of the plan.

3. The development plan should provide that if resources of the mentor are utilized by the DBE in the performance of contracts or subcontracts for the mentor or for another contractor, the resources must be separately identified, accounted for, and compensated directly by the DBE to the mentor. If the plan provides for extensive use of the mentor's resources by the DBE, the arrangement will be closely scrutinized.

4. The development plan may also include training to be provided by the mentor to the DBE. Such training includes business planning; record keeping; technical assistance; capital formation; loan packaging and financial counseling; bonding; and equipment utilization.

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5. The development plan should contain a provision that it may be terminated by mutual consent of the parties or by WisDOT upon its determination that:
  - A. The protege no longer meets the eligibility standards for certification as a DBE;
  - B. Either party has failed or is unable to meet its obligations under the development plan;
  - C. The DBE is not progressing or is not likely to progress in accordance with the development plan;
  - D. The DBE has reached a satisfactory level of self-sufficiency to compete work on the contract with regards to the development plan; or
  - E. The plan or provisions thereof are contrary to the requirements of federal, state or local law or regulation, or otherwise inimical to public policy.
6. The development plan may include a provision that either party for any reason may dissolve the arrangement by notifying WisDOT.

***Monitoring***

WisDOT will conduct an annual review of each Mentor/Protege relationship. Four WisDOT officials will conduct the review, including the Bureau of Equity and Environmental Services Director or representative, Equal Opportunity Program Officer or a representative, a construction management representative, and a project manager from one of the DBE's WisDOT projects. The annual review will evaluate, in addition to the program requirements, the following items:

1. Improved competency of the individual DBE entrepreneur in specific aspects of highway contracting;
2. Ability to successfully manage highway contracting projects;
3. Decreasing reliance of the protege on the mentor for equipment and personnel;
4. Increasing financial capacity; and
5. Increasing numbers of projects with contractors other than the mentor firm.

If WisDOT determines that the Mentor/Protege program requirements are not being followed, approval of the Mentor/Protege relationship will be revoked.

WisDOT Mentor/Protégé Program will be implemented in accordance with the guidelines set forth in 49 CFR Section 26.35(b)(2).

- i. Non-DBE Mentor cannot use its DBE Protégé to meet more than one-half of the goal set for a specific project.
- ii. WisDOT will not award DBE credit to a non-DBE Mentor firm for using its own Protégé firm more than every other contract performed by the DBE Protégé firm.

### **49 CFR Part 26 Mentor-Protege Program Guidelines**

(A) The purpose of this program is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms.

(B)(1) Any mentor-protege relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protege. The formal mentor-protege agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protege through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(B)(2) To be eligible for reimbursement, the mentor's services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. WisDOT may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the protege is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/protege agreement.

(C) DBEs involved in a mentor-protege agreement must be independent business entities, which meet the requirements for certification as defined in subpart D of 49 Code of Federal Regulations, Part 26. A protege firm must be certified before it begins participation in a mentor-protege arrangement. If the recipient chooses to recognize mentor/protege agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/subcontractor mentor-protege agreement.



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**Prohibitions**

The following are never permitted/prohibited in Mentor-Protégé relationships:

- A. No Mentor-Protégé Agreement can force the Protégé into an exclusive arrangement with the Mentor. As a general rule, the Protégé must retain the right to contract with others during the duration of said Agreement and in the Action Plan.
- B. Under no circumstances is the Mentor permitted to have an ownership interest of any kind in Protégé.
- C. Although there may be various levels of assistance rendered by a Mentor to Protégé, no assistance can reach the level where day-to-day control has been relinquished by the Protégé to the Mentor.
- D. The parties to a prospective Mentor-Protégé relationship must not proceed without a written Action Plan, which has been reviewed and approved in advance by WisDOT. Any activities conducted prior to the existence of a fully executed and approved Action Plan will not be credited toward established contract DBE goal nor will the costs be reimbursable by WisDOT.
- E. The DBE may never be relegated to the status of middleman, broker or front.
- F. At no time, shall any arrangement lead to a situation where final decision-making authority is taken away from the Protégé.

**Notifications/Approval Requests**

All notifications, request for approval or other communications by the Mentor and/or Protégé to WisDOT must be addressed to the Wisconsin Department of Transportation, Civil Rights and Compliance Program, 4802 Sheboygan Avenue, Room 451, P.O. Box 7965, Madison, WI 53707-7965, attn: Bureau of Equity and Environmental Services, attn: Equal Opportunity Program Manager.

## **(SAMPLE AGREEMENT)**

The agreement, executed this     Date     by and between     (Mentor Company Name)    ,  
    (Complete Address)    ,     (Mentor Company Official and Title)     and  
    (Protégé Company Name)    ,     (Complete Address)    ,     (Protégé  
Company Official and Title)    .

### **OBJECTIVE:**

**Mentor** and **Protégé** desire to form this **Mentor/Protégé** agreement (hereafter referred to as "agreement") under the guidance of WisDOT and 49 CFR Part 26. The purpose of this agreement is to build a strong business relationship and to promote a successful business development opportunity for **Protégé**, and to more fully develop:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **PROJECT DETAILS:**

This agreement is formed for the     (project/construction contract)    . **Protégé** desires to expand business to include:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **DURATION:**

This agreement will expire on     (date)    . If the standards of this agreement are not being met, WisDOT reserves the right to terminate the agreement prior to     (date)    , and discontinue counting any participation towards the     (project/construction contract)     DBE project goals.

### **RELATIONSHIP:**

Each firm will maintain its independence during the duration of the     (project/construction contract)    . This agreement does not preclude either firm from continuing to pursue prime/sub contract opportunities on other projects, so long as **Protégé** insures that this project will be a priority for its growth and development. **Protégé** and **Mentor** are financially responsible for costs incurred when submitting bids or purchasing materials.

### **BUSINESS DEVELOPMENT:**

**Protégé** has the opportunity to learn from an established firm with      years of experience and expertise in the highway heavy electrical industry. **Mentor** will offer direct training in project supervision, providing at least one supervisor to work directly with **Protégé** on the     (project/construction contract)

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project. **Protégé** has identified \_\_\_\_\_ company Official name) \_\_\_\_\_ as the key field supervisor for the firm. \_\_\_\_\_ (Name) **Protégé's** president, will also be provided with training.

**(SAMPLE TEMPLATE)**

In addition, **Protégé** will receive training and development in the following areas from **Mentor**:

1. Safety Training  
**Mentor** will offer assistance and training in its time-proven safety measures, as well as assisting **Protégé** in the development of a safety manual.
2. Project Management:  
**Mentor** will assign project management personnel to assist Delores and David Wermerskirchen in cost accounting and estimating, including quantity take off.
3. Street & Highway lighting:  
**Mentor** will provide project assistance including: reading and interpreting contract plans & specifications, project planning, scheduling, and installation of construction equipment and materials.
4. **Others as appropriate.**

In addition **Protégé** must submit a business plan to WisDOT within 90 days of this agreement.

**CONFIDENTIALITY:**

**Protégé** and **Mentor** agree to treat all information obtained from one another in strict confidence and shall not disclose any such information except as required to carry out the terms of this agreement.

**REPORTING:**

**Protégé** is responsible for reporting all activities conducted each month. The report should include, but is not limited to the following items:

Work conducted. Include quantities, employees on project, purchases made and person hours used.  
Training received. Include type of training (safety, estimating, job costing, etc.) and who received it.  
Description of work, job location, activities completed and supervisory training received.

**Protégé** and **Mentor** must sign all reports.

**DELIVERABLES:**

WisDOT must receive on or before the conclusion of the \_\_\_\_\_ (project/construction contract) the following items:

Business Plan

Safety Manual

Final detailed project report  
Total training hours (by type and person receiving)

Total people hours work

***(SAMPLE TEMPLATE)***

If WisDOT does not receive this information, **Protégé** will be deemed in non-compliance with the **Mentor**/Protégé portion of the DBE program and removal of eligibility proceedings may follow.

The contents of this agreement must be conducted within the rules of the DBE program, 49 CFR Part 26.

**Protégé Company**

\_\_\_\_\_  
President/Vice President

\_\_\_\_\_  
Date

**Mentor Company**

\_\_\_\_\_  
President/Vice President

\_\_\_\_\_  
Date